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Advisory Group on Civil Service and Employee Benefits

Minutes of Meeting
November 9, 2009

DATE APPROVED: November 16, 2009

I. CALL TO ORDER

A meeting of the Advisory Group on Civil Service and Employee Benefits was held on Monday, November 9, 2009, in the John J. Hainkel, Jr. Room at the State Capitol in Baton Rouge, Louisiana. The chairman, Representative Jim Morris, called the meeting to order at 1:30 a.m.

II. ROLL CALL

The secretary called the roll and the following was noted:

MEMBERS PRESENT:

Representative Jim Morris, Chairman
Representative Kevin Pearson
Representative Mike Danahay
Representative Karen St. Germain
Lansing Kolb

MEMBERS ABSENT:

STAFF PRESENT:

Laura Gail Sullivan, Coordinator
Ann S. Brown, Analyst
Michelle Pickering, Secretary
Evelyn McWilliams, Fiscal Analyst

Clark Gradney, Budget Analyst
Karen LeBlanc, Senior Auditor
Camille Pampell Conaway,
Governor's Office, Policy Adviser

Advisory Group on Civil Service
and Employee Benefit

WITNESSES:

Jean Jones, Department of State Civil Service, Post Office Box 94111, Baton Rouge, Louisiana 70804

Shannon Templet, Department of State Civil Service, Post Office Box 94111, Baton Rouge, Louisiana 70804

Judy McGimsey, Department of State Civil Service, Post Office Box 94111, Baton Rouge, Louisiana 70804

Robert Boland, Department of State Civil Service, Post Office Box 94111, Baton Rouge, Louisiana 70804

Shelley Johnson, LASERS, 18645 Antebellum Court, Prairieville, Louisiana 70769

Cindy Rougeou, LASERS, 8401 United Plaza, Baton Rouge, Louisiana 70809

Maris LeBlanc, LASERS, 8401 United Plaza, Baton Rouge, Louisiana 70809

IV. DISCUSSION:

Representative Jim Morris asked that all cell phones either be turned off or silenced. He said that basically today the advisory group would be receiving information, education, and testimony related to state workforce issues, including possible strategies for reduction of workforce numbers.

Laura Gail Sullivan advised the advisory group and the audience relative to the context of the discussions that would be heard today and possibly in other meetings, and wanted to distinguish among some of the terms that might get thrown around. She said that there were several ways that incentives could be provided to encourage a voluntary separation from service and then there was a severance benefit that could be paid to people who were laid off. The four terms that seemed to be used interchangeably were retirement incentive program, early retirement, buy out, or severance. A retirement incentive program is something that provides an incentive to individuals who are already eligible to retire to get them to separate from service within a specified amount of time. Early retirement relaxes the eligibility standards in order to allow more people to become eligible to retire. Often an early retirement program would be paired with a retirement incentive and the incentive would apply to those people who are eligible without the early retirement provision and to those who were eligible only because of the early retirement provision. A buy out was generally offered to employees as an incentive irrespective of their retirement eligibility and could be offered to employees who were only in certain positions that might be targeted for elimination or it could be offered to all employees. Severance is a lump sum or other kind of benefit that might be given to an employee at the time that they are laid off, it is not meant to entice them to voluntarily separate, it is given upon an involuntarily separation. She said that several other states had recently implemented retirement incentive programs and provided the advisory group with a few details relative to the outcome of those programs. Connecticut implemented a retirement incentive, which only applied to those individuals who were already eligible for retirement. They added up to three years service credit for benefit calculation only. Often in these

incentive programs there is a specification that the individual could not be re-employed within a certain amount of time and that the position would be eliminated, neither of those issues were addressed by Connecticut. The problem Connecticut had with the retirement incentive was that it turned out to be more popular than expected and they had to re-employ some of the individuals who took the incentive for a short term in higher ed.

Maine also offered a retirement incentive which was a \$10,000 lump sum payment and applied to almost everybody, and the position that individual held was frozen through June 30, 2011, with critical positions being allowed to be refilled if the department could find comparable savings from another source.

In 2008 New Jersey had a retirement incentive that added up to three years of service credit for benefit calculation and also provided for participation in the state's group health insurance program. It imposed a three year waiting period for appointment, employment or contract services upon those individuals who took the incentive and applied to only those individuals who were retirement eligible. The positions were not eliminated, however, no more than 10% of the positions vacated were allowed to be filled. The problem New Jersey had is that this year the governor plans to withhold two-thirds of the actuarially required contribution despite an estimated actuarial cost in the hundreds of millions of dollars for just this retirement incentive.

New York is currently negotiating with the union for a retirement incentive this year that would be a \$20,000 lump sum payment. The person would have to hold a position that could be eliminated.

Oklahoma used a buyout of employees in specified agencies. It was a one time bonus and included 18 months of health insurance premiums, the longevity payment, and a leave payout.

In 2008 Tennessee had a buyout that involved a lump sum payment of four months of salary, plus \$600 per year of service which included the next longevity payment, and included the normal payout of leave, subsidies for health insurance payments, and tuition assistance of up to \$10,800. The eligibility was determined by employment in a program that could be eliminated. Despite the buyout in 2008, Tennessee is currently looking at furloughs and layoffs this year.

In 2009 Vermont offered a retirement incentive which was a bonus payment determined by years of service, but capped at \$15,000. Eighty percent of the state's share of the health insurance premiums would be paid for the employee and dependents for up to ten years and one-third of the positions vacated had to be eliminated.

Louisiana has also been listed among the states offering a retirement incentive this year based on the layoff avoidance measure that Civil Service will discuss later.

Representative Morris called on LASERS.

Representative Morris commented that he understood that the advisory group had sent them a request for information to explain the retirement incentive programs from 1984 and 1986 and asked if the advisory group had received that information and if they were prepared to do that today.

Cindy Rougeou, Director of LASERS replied that they have pulled together all of the data that they had other than a percentage question that the staff could do if they had more time. She said that they have had a lot of staff working many hours to get as much of the data, which was very old, as possible.

Laura Gail Sullivan asked that they explain the concept that it was a retirement incentive and early retirement.

Cindy Rougeou replied Act 660 of 1984 was an early retirement incentive and provided members eligible to retire between July 1, 1984, and August 31, 1984 and who did retire during that period, received an incentive payment of one quarter of their annual salary. The Act also provided that members not eligible to retire during that period, but who had ten years of service and had reached the age of 50 or who had at least 25 years of service regardless of age were allowed to retire with 2% average compensation plus \$300 plus an incentive payment of one-half salary. She said that there were retirement incentives where you are eligible to retire and they give an incentive to actually retire and then those that are not eligible, however, they make it possible for them to retire anyway. The 1986 Act 144 which provided a basic benefit and a financial incentive to retire early. The basic benefit was 2.5% times years of service plus \$300, the incentive would be 5% of the basic benefit not to exceed \$600 - \$50 per month. Members eligible to retire between July 1, 1986, and December 31, 1986, and then those members not eligible to retire during that period, but who had ten years of service and had reached age 55, or had 25 years of service regardless of age.

Cindy Rougeou now responded to the questions posed by the advisory group. Question number one: How many state employees left service under each bill and what percentage of those eligible took advantage of it. She said going back into the 25 year data they discovered two things, one, that in 1984/1985 LASERS did not code the data such that they knew who retired under Act 660 of 1984. She said that 641 individuals retired during the period of time that was mentioned in the Act and of that 641, there were 470 who would have been eligible under normal retirement and 171 who would not have been eligible. She also pointed out to the advisory group that there was no note made in the valuation in 1985 reflecting on any additional increase to the UAL as a result of that Act. Whenever someone is given the opportunity to retire that would not otherwise be eligible, that creates a cost to the system. With Act 144 LASERS was coding the data. She said they knew that 673 individuals out of the 897 who retired during that period did retire under the early retirement incentive and 207 of those were not eligible for regular normal retirement eligibility. She said that she did not have the percent of those eligible with her, but could have her staff continue running a query to try to get that.

Question number two: How much did the state save because of the separations under each bill and how long did the savings last. She said that ultimately it was a bit speculative because they did not know how many of the jobs were recreated by the Division of Administration. Under the 1984 Act, if all 641 retirees took advantage of the incentive program, then the maximum savings by virtue of their final average compensation would have been 21 million dollars. In the 1986 Act, 12.5 million maximum savings. However, there was no way of determining whether or not any of those positions were refilled.

Question number three: How much did each of the Acts cost both in direct payments and the creation of unfunded accrued liabilities, if any liabilities were created, what is the remaining balance to be paid. She said they did not have the valuation reflecting the cost of the 1984 Act, however, she had the cost of the 1986 Act on the system and said that it increased their accrued liability by 200 million dollars, plus. It also caused an experienced loss to the system of 151 million dollars. The actuary told us that the approximate 350 million dollar total has grown to approximately \$600 million today. She said that this was because that following year that the IUAL was established and included Act 144 of 1986 and the IUAL was amortized over that 40 year period. The initial unfunded accrued liability had to be paid by 2029. If a similar liability were created today, a payment schedule would be established such that it would be paid off over a ten year period with level payments made through the employer contribution rate. She said that if a retirement incentive were to pass today that cost the system, that cost would be rolled into the employer contribution rate and it would have to be paid to the system.

Question number four: What was the level of LASERS active membership immediately before and after the years in which the early retirement incentive was enacted. In 1984 they had approximately 69,000 active members; 1985 they had about 69,675 active; 1986 it was down to 66,007; 1987, 63,007; 1988, 62,144 and today they were at about 62,000. She said that there were many factors that contributed to these numbers and the change in these numbers, whether it be layoffs, hiring freezes, etc. She said that she did not want to attribute all of the numbers to any early retirement incentive program. She also wanted to point that that there were 3,881 active members of LASERS who were eligible to retire by December 31, 2009.

Representative Pearson inquired relative to the cost being paid over a ten year period and asked if the experienced loss was something that was now amortized over that ten year period.

Shelley Johnson replied today experienced losses were amortized with level payments over a 30 year period. The difference between how an experienced loss would be handled and how a loss that was created by an increase in liability resulting from legislation that was passed that would result in early retirement, that would immediately increase the system unfunded accrued liability because of the constitutional amendment, it would have to be funded over a ten year period with level payments. That is different from an experience loss. She said that would be an experience loss, but it would be attributable to legislation so it would fall under an increase in liability.

Representative Pearson inquired as to whether or not it was possible that it could be amortized over a 30 year period.

Shelley Johnson responded that it would depend on how the legislation was structured. She said that she thought if it were specified in the bill . . . she said that they would just have to take a look at how it was written and see if it fell under the language of the constitutional amendment. If it fell under that language of the constitutional amendment, then she thought that that would prevail and it would have to be a ten year period.

Representative Morris commented going back and looking at the 200 million dollars and the 150 million dollars that had grown today to be approximately 600 million. It was his opinion based on that, these types of incentives are certainly not anything to be utilized, at least from a cost savings measure.

Shelley Johnson replied that was because of how the statutes were applied in the past. In the past the initial unfunded liability, which is the unfunded accrued liability of the system in 1988 whenever the first constitutional amendment was passed, it was required that the total unfunded accrued liability, at that time, which is called the initial unfunded liability, and the statutes were written so that that would be paid with increasing payments, think of it in terms of the mortgage on your home. When you mortgage your home for 30 years, the first payments are pretty much all interest you are barely putting anything towards the principal. If the payments are increasing, if they are not even level, if they are lower in the earlier years then you are not even covering the interest and so the interest that is not being paid contributes to an increase in the outstanding balance. So the outstanding balance when you have an increasing amortization schedule or an increasing payment schedule the outstanding balance increases each year and this was established in 1988 and here we are now in 2009 and that outstanding balance is still increasing, we haven't yet begun to pay down the principal on the IUAL and that is the sole reason why this UAL created from these early retirement bills back in the late 1980's that is the sole reason why the balance is still out there today and has increased. It is just because of how the pay down of the IUAL was established.

Representative Morris stated so the new legislation that was passed just recently would make this more acceptable as far as a measure to utilize for streamlining and asked if that was what she was saying.

Shelley Johnson responded that it would not be part of the IUAL so it would either be under the constitutional amendment which requires that it be funded over a ten year period or it would specify something else. She thought that it would not have an increase in payment schedule. It was her belief that we have learned from the past that it was important to pay down the liability.

Laura Gail Sullivan stated that the State Constitution now requires any benefit provision having an actuarial cost to provide for the payment of that cost within ten years.

It doesn't have to be a UAL it could be an experience loss, but if the benefit provision causes the actuarial cost it would have to be paid within ten years. She said that generally a benefit provision would be any law, rule, regulation or contractual arrangement or agreement or other similar statement governing application of the pension plan elements that affects or determines the eligibility of a person to receive a payment or payments from a retirement system or that affects the frequency, timing or amount of such payment. A benefit provision enables a person to receive payments from the system sooner, more frequently, or of a larger amount or to receive any payment that he would not otherwise receive would generally have a cost. Very benefit provisions have no cost. Those that do not increase cost usually contain a phase such as actuarially reduced, actuarially equivalent or cost neutral.

Cindy Rougeou commented that she thought that reflected the policy of the legislature and administration in recent years to try to reduce the debt of the retirement systems rather than to continuing to exacerbate that. She also wanted to point out that where they have experienced situations where individuals were allowed to retire earlier than they normally would be, what they have found was that it seemed that they were almost immediately hit with legislation the next year on rehired retirees to bring them back because these folks typically find that they can't live on . . . whether it be reduced retirements or whatever incentives were offered in the past. She said as a matter of practice a lot of jobs are recreated and legislation was brought try to allow agencies to rehire individuals who have retired.

Representative St. Germain inquired as to whether or not that was because of the necessity of the positions they occupied.

Cindy Rougeou replied that was exactly correct. The agency finds that they still have the same needs, because it might be a critical position. She said that the Division of Administration could give the advisory group the data in terms of how many jobs and what types of jobs were recreated under the various early retirements. It was her opinion that agencies often had to refill those positions.

Representative St. Germain inquired as to whether or not there was a way to do a comparison to see if we are doing the same thing that we did at that time, but with today's new statutes.

Cindy Rougeou responded that she was not entirely sure, but said they would look into that.

Representative Pearson stated that it seemed ridiculous to let someone go who worked in a critical position because of early retirement and asked if it would be more practical if it could be done in some fashion where a department head could say or list critical and non-critical employees or positions.

Cindy Rougeou replied that the problem then would get into an issue of cost if someone was given an opportunity to retire and they have neither earned nor purchased

the service credit rendering them eligible to retire, then that would cost the system money. Obviously, it would depend on how it was done, but it does create a problem for the agencies when it's solely up to the individual to decide whether or not to retire and in essence deem for themselves as to whether or not their position was critical or non critical.

Representative Pearson commented perhaps the key people leave and obviously know that they may well be needed back.

Cindy Rougeou answered absolutely and they see that often. She said until recently there was the opportunity to retire with an actuarially reduced benefit with ten years of service at age 50 and we have been besieged by requests to try to come up with legislation to let those folks back in and of course doing that would cost the system money. There are often unintended consequences when doing this sort of thing.

Representative Pearson inquired as to whether or not we were still paying for the 1984 legislation.

Shelley Johnson answered absolutely through the IUAL.

Representative Morris inquired as to the percentage of retired individuals that wanted to come back to work as a state employee.

Cindy Rougeou replied that she thought that it depended on the circumstance in which they retired. Obviously, after Katrina there were a lot of folks who were happy to have that 10 at 50 option to retire because it enabled them to keep their health insurance. But the find that they simply can't live on such an actuarially reduced benefit. She said that they have often been approached critical care nurses, it's different types of occupations in state government that simply are for positions like critical-needs positions and when you have folks who have a lot of years and a lot of experience and knowledge in a certain field, they retire and then the agency is begging them to come back because they find they can't just replace that experience and knowledge with someone from right off of the street and it just becomes a need for the agency, but again we have to balance that with creating a cost to the system.

Representative Morris commented with your expertise in this system and in retirement, there is just not a good sector of employment to look at in offering an incentive with a retirement package then really is there.

Laura Gail Sullivan asked for clarification relative to the experience loss that was caused when people retire before they were expected to. In a buyout type situation where a lump sum was offered irrespective of an individual person's eligibility to retire, if a lot of people who were eligible to retire and took the buyout, then began drawing their retirement benefits immediately, would that cause a possible loss to the system.

Shelley Johnson replied if they were retiring earlier than they otherwise would have, then it would result in an experience loss. An experience loss happens anytime someone

retires earlier or later or with a higher salary or a lower salary or with anything different than what we assume with actuarial assumptions which was based on the prior experience of the system. So yes, if a buyout were to cause people to retire early and start to collect their benefit earlier than they otherwise would have then there would be an experience loss.

Laura Gail Sullivan stated and also with a layoff. If people who were laid off began to collect their retirement benefits sooner than what was expected, that would also be an experience loss, the system does not recognize why the person begins to collect the benefits.

Shelley Johnson responded that if it was a layoff that results in retirement, then yes. If it is a layoff that results in termination and they are not immediately collecting retirement, then that could be an experience gain to the system, because they are no longer earning additional benefits that they are later going to be paid for.

Cindy Rougeou stated that traditionally with legislation giving the opportunity to retire earlier than what would be under the normal retirement, they do an actuarially reduced benefit which offsets any cost to the system.

Laura Gail Sullivan commented the two bills that are being discussed, 1984 and 1986 and then the provisions listed for the other states, most of those involve giving extra service credit to people who are already eligible, providing a lump sum to people who are already eligible, providing health insurance to people who are already eligible and it was her understanding that the expectation was that those people rather than drawing unemployment would voluntarily sever, but they would chose to sever because they had another source of income in their benefit.

Shelley Johnson inquired about buyouts and asked if that meant the retirement system was paying the lump sum or the state paying the lump sum.

Laura Gail Sullivan stated in these cases either the agency paid the lump sum or, like with our retirement incentive now where the agencies are paying the lump sum under the layoff avoidance measure, in some of these states there was actually an amount of money appropriated for the buyout program and that was allocated for the \$10,000 but many of the buyouts involved a lump sum that was calculated on the years of service. So people with more service would get a larger amount in the lump sum and would also be at or closer to retirement.

Shelley Johnson commented the reason she asked was because if it was not the retirement system paying the lump sum then that would not contribute to the UAL.

Cindy Rougeou stated unless individuals were being allowed to retire before they would normally be eligible to retire and they were receiving a benefit.

Laura Gail Sullivan commented whether they were being allowed to retire or they were separating from service and were already eligible so they draw two or three years earlier than the retirement system would have normally been paying.

Shelley Johnson stated that she was not saying that there would not be an experience loss . . . any additional benefit, that they would receive. The loss would be attributable to them retiring early as oppose to any lump sum that the state might pay them outside of the retirement benefit.

Cindy Rougeou commented that they offered in the past "air time" where you could purchase up to five years of service for retirement eligibility, but the employee had to pay the full actuarial cost of that. She said what they were looking at was cost coming from two sides, one fiscal cost that the state was paying directly out of the general fund and then actuarial cost that were additional debts accruing to the retirement systems.

Representative Pearson inquired relative to a state employee retiring and then going to work in the private sector and put in their 40 quarters within social security, then they retire from that employment and asked how the two benefits worked together.

Cindy Rougeou replied that in Louisiana the state employees do not contribute to social security. She said that Louisiana was one of the seven states that do not allow their employees to contribute to social security. So when an individual retires from state service and they also have a social security benefit, then they would receive their retirement benefit and their social security benefit would be offset by a formula.

Representative Pearson inquired as to whether or not that was the windfall elimination.

Cindy Rougeou answered that was exactly right.

Representative Pearson inquired as to whether or not the formula was a dollar for dollar formula.

Cindy Rougeou answered she was not sure but thought it was not dollar for dollar and said that it was based on a formula.

Representative Pearson stated that he thought that would be a huge disincentive for any state employee who was vested in a retirement system to go out into the private workforce because they really will not gain any benefits especially with social security.

Cindy Rougeou replied that they would gain a very modest benefit. Any benefit that they had personally earned would not be wiped out entirely by the offset if it was your own benefit, but they would not get the value of the full 40 quarters of what they would have normally received had they not been receiving a public pension also.

Representative Pearson inquired as to the percentage of the offset.

Cindy Rougeou answered that she really did not know, that was a social security determination. However, she thought that it was significant and said that their retirees suffer greatly under the burden of those federal offsets.

Representative Morris commented if the state of Louisiana was going to move forward with the possibility of offering retirement incentives, the best means by which to do that would be for this legislative body to come up with the money in order to move these forward.

Cindy Rougeou stated that she thought it would be very detrimental to assign any cost to the retirement systems because of the heavy burden under which they already labor.

Representative Morris stated that if the legislative body was going to do this, they would need to somehow categorize employees in those critical positions.

Cindy Rougeou said unless you can know legislatively how many positions would be recreated or not there would be no way to know what the savings would be.

Representative Morris commented if the state retired people and then did not have the capability of eliminating the programs and the positions had to be filled, we are not saving anything.

Cindy Rougeou responded no sir you are not, you are having a situation where critical positions are being refilled either by a new individual who has not worked in state government, by a rehired retiree, or by an individual from another state agency. She said that she wasn't sure how many positions that were vacated by virtue of early retirement actually remain vacated.

Representative Danahay asked about eliminating positions at the agency level and doing it through an early retirement incentive. If an agency identified a position to be eliminated and that person was within a range of where they could seek early retirement, he inquired if they could get the incentive individually, or would the incentive have to be done as a whole.

Cindy Rougeou responded that the question was probably a broader legal question. They did not want to affect the tax qualified status of the retirement plan by any type of discriminatory application of any retirement laws. She would be concerned with having to identify individuals.

Representative Danahay stated that he wanted to see that positions be eliminated altogether and not to re-hire, knowing that it would go away. He wondered about being able to offer an employee the early retirement incentive if they are qualified rather than doing it as a blanket incentive.

Cindy Rougeou stated that the approach in terms of working directly with the agencies to try to determine positions that they can live without as opposed to certain agencies that have critical needs and various positions they will have to fill. Working on it at a more in-depth basis with the individual agencies would be more successful.

Shelly Johnson added that it would be extremely important that not only would the member's position not be able to be filled where someone else is being paid, but where that member could not go and find another job in state service and become a re-hired retiree.

Cindy Rougeou stated that it has been difficult to tell employees that they can not come back to work because some agencies discover that they can not do without that level of experience in training.

Representative Danahay understood that if a person was in a critical needs position, that person may not be offered the early retirement incentive. He stated that there are some positions that the agencies can live without, but they have not been arbitrarily selecting those that they want to eliminate and offering them the incentive.

Cindy Rougeou stated that he was right to look at it from agency to agency and that it would have to be a very thoughtful process.

Representative Morris inquired that in 1984, if the agencies were trying to eliminate employees, how could they make a decision.

Cindy Rougeou answered that in 1984 and 1986, it was prior to the Constitutional Amendment that recognized the IUAL of the system, and then required that it be paid off as amortized over that 40-year period. The debt of the systems had not been recognized.

Representative Morris asked if they created an incentive, type retirement, how can they create it so that the cost today would not create an actuarial problem.

Cindy Rougeou stated that if an early retirement incentive was created that granted employees the opportunity to retire before they would normally be eligible, a debt to the system would be created and that debt would have to be paid off in a specified period of time. If something is done in terms of dealing with people who are already eligible to retire, then it is a fiscal issue.

Laura Gail Sullivan stated that was not what she understood Shelly to say about an experience loss.

Shelly Johnson answered that anytime an employee would retire earlier than they otherwise would have there would be an experience loss. There would be no way to know ahead of time who would take it, whether or not they were eligible to retire, and what the cost would be. The cost would not be known until after the fact. If legislation was introduced in the upcoming session that was not effective until after the session was over,

they could estimate a cost and based on assumptions of who would take it and what the cost would be. Anytime someone retires before they are eligible, there is definitely a cost.

Representative Morris inquired as to how many people are eligible for retirement.

Cindy Rougeou answered 3,881 active members of LASERS are eligible to retire by December 31, 2009. That number does not include those in DROP.

Representative Morris inquired how many more were in DROP.

Maris LeBlanc, Deputy Director of LASERS, stated that 2,528 members are in DROP. 2,417 members are working after DROP. Additionally, there are 279 re-hired retirees.

Representative Morris inquired if the 3,881 member were forced to retire, what difference in cost would there be if they gave an early incentive.

Shelly Johnson answered that there was no way to estimate it and she would have to run the numbers through the programs.

Representative Danahay asked for an explanation of the DROP program.

Maris LeBlanc answered that DROP allows employees, when they are eligible to retire, to say that they are eligible but do not want to leave. They can work for an additional three years and, instead of making retirement contributions during that period, their retirement benefit would go into a special account for the employee. After the three year period ends and they sever employment, they can withdraw that lump sum at the time they take normal retirement when they decide to retire.

Representative Danahay asked if the special fund that was set up affects the state retirement or the UAL.

Cindy Rougeou answered that DROP is an actuarially neutral program.

Representative Danahay inquired how DROP affects the UAL in the fact that they are no longer counted in that three-year period but they come back into it after that period.

Maris LeBlanc clarified that his question was if an employee is receiving benefits that are going into the DROP account for them to take later, how is there no cost. There is no cost because their final average compensation when they go into DROP is frozen for all of their service prior to DROP. If they continue working after DROP, and even if they do not, for the three years that they are in DROP at whatever salary increases they have, that would not be reflected in their pre-DROP retirement benefit. If they continue to work after DROP, they would have to work an additional three years and then that final average compensation for that service would be applied to their benefit to the after-DROP service.

The benefit that they have earned for the majority of their career pre-DROP, that final average compensation, is frozen when they first go into DROP.

Cindy Rougeou stated that if an employee goes into DROP, it is like they are betting against themselves. That employee would presume that for the balance of their career, they will not have any substantial promotions or raises because they would lock their benefit in at that point. The majority of employees regret having done it.

Representative Danahay verified that even when the employee comes out of DROP and enters back into the system, even if they have had incremental raises during that time period, their salary would still be frozen at the time they went into DROP.

Cindy Rougeou stated that after the three-year period that an employee has been in DROP, they can continue to work. If they work an additional 36 months after that DROP period, they could have a supplemental benefit calculated but their main benefit was frozen from when they entered DROP.

Representative Morris asked if it would surprise them that in 1986 when Act 660 took place they had no fewer people eligible to retire then than they do today.

Cindy Rougeou answered that they find that the level of active employees in LASERS never seems to vary that much.

Representative Danahay asked if there were fewer classified employees as of today than of 1986.

Cindy Rougeou answered that in 1986, LASERS had 66,704 active employees - that does not include all classified employees, only those in LASERS. As of today, there are 62,000 active employees.

Representative Morris inquired if they had to work out a program to try to get people to retire for streamlining, would it be correct to state that it would not be actuarially prudent.

Cindy Rougeou answered that it would be difficult to come up with a plan that would not result in some cost to the system.

Representative Morris called on the Department of Civil Service to come before the advisory group. He verified that the department knew why they were present that day - to discuss procedures for furloughs, layoffs, and any information they knew about lump sum retirement incentives.

Shannon Templet, Director of Civil Service, stated that Judy McGimsey would discuss the furloughs and layoff process.

Judy McGimsey, Program Assistant and Training Division Director at the Department of Civil Service, stated that one of the things her staff handles is the review of

layoff avoidance and layoff plans. They try to achieve three outcomes in the layoff process: for agencies to be able to adapt quickly and effectively to budget reductions that result in layoffs or restructuring, allow the services available to citizens to be provided in the most cost-effective way possible, and be able to retain highly qualified and experienced employees with good performance. She refers to the handout of a one-page summary of the layoff process, and a three page document explains it in more detail. They made those documents available to all of the department heads to help them understand at a high level what the process requires. The decisions of which positions are to be eliminated and which people to lay off are made by the appointing authorities of the agencies. There has been confusion in the past over who had that authority. Each agency is required to submit a layoff plan to the Department of Civil Service for approval prior to the effective date of the layoff, and that has to be in keeping with some established notice requirements and time frames. Their staff is available to advise in the process to help streamline the layoff process.

Representative Morris asked if there has been any moving forward yet of a possible layoff process and if she had that information.

Judy McGimsey answered that there has been a moving forward but that she did not have the information with her. They have a spreadsheet to keep track of everything that has happened.

Representative Morris asked how current the information was.

Judy McGimsey answered that there would be an update run on it today.

Shannon Templet stated that they update it every day as layoffs occur, whether it is a layoff or layoff avoidance. She receives that report once a week.

Judy McGimsey stated that they keep that information according to fiscal year.

Representative Danahay inquired if the layoff avoidance plans are normally filed prior to the budget process beginning or as they go through the year.

Judy McGimsey answered that it can be filed at any time during the year.

Representative Danahay inquired when they normally see those filed.

Shannon Templet answered that the layoff avoidance measures have not been normal or frequent in the past. This year, they started to get them in February and March because of the mid-year budget cuts. After that, they started seeing them effective for the fiscal year.

Representative Danahay asked if the plans came from each individual agency as they saw fit.

Shannot Templet answered that they do.

Representative Morris asked if they knew how many agencies submitted a plan that year.

Judy McGimsey answered that they could get that information for them. Primarily, it is all of the state hospitals, most of the colleges and universities, and few other agencies. She continues to explain layoff avoidance plans. Sometimes, depending on what the circumstances are, an agency can go into layoff avoidance for a particular period of time and manage to continue to provide services and have their operations maintained on a short-term basis. In those cases, they will accept layoff avoidance plans. Layoff avoidance has to be submitted to the department for prior approval. Typically, the plan is made up of a letter explaining what the agency is going to do and the nature and time-frame of the layoff avoidance measure they wish to implement. Those requests can be approved by the civil service director and are frequently completed within one working day of receipt of the plan. The options that are currently available for layoff avoidance include: cancelling merit increases for 12 consecutive months, reducing regular work hours and corresponding salary by up to 16 hours per pay period, implementing furloughs of one or more days over a specified period of time (ex: one day a month for a period of 12 months), offering an incentive payment to employees who are eligible for regular retirement not to exceed 50% of the cost-savings to the agency over a specified period of time (normally done over a fiscal year or other 12 consecutive month period). When layoff avoidance is not a viable option then a comprehensive layoff strategy has to be developed. These layoff avoidance tools can be used as a short-term measure if immediate cost-savings are needed while the more comprehensive strategy is being developed and implemented.

The general process is as follows: the agency determines the programs and/or positions to be eliminated in order to achieve their stated goal which may be to streamline business operations, to save money, or to outsource a function. At this point in the process, they are looking at positions, not people. The agency defines the organizational unit for purposes of layoff and the flexibility with which the organization unit can be defined is the key to effectively structuring an overall layoff plan. It can be defined very broadly or as narrowly as a specific program or work unit. Consultation with the department staff in making that determination is also very valuable because that work unit draws the parameters within which the layoff will take place. At this point, an agency should be able to understand and communicate what the organization looks like prior to the layoff and what it would look like after the layoff is completed. Then, the agency will identify any employees within that affected organizational unit who have "poor" or "needs improvement" performance evaluations in the last rating period. The plan that they submit to the department will indicate that those people are to be laid off first. The positions that those people are in may or may not still be needed, but the fact that they are poor performers means they will be the first laid off. The agency then determines which employees in the affected organizational unit, broken down by career field, are the last hired to determine how many of them would have to be laid off to meet that stated goal. If any of those employees have specific competencies, qualifications, extraordinary performance or experience that should exempt them from the lay off, then the agency can do that

regardless of the fact that they have fewer years of service. They can, of their own volition, exempt up to 20% of the total employees who would be laid off or might be moved to another job in the post-layoff structure. The number can be expanded, but exceptions beyond that 20% are exceptions to other aspects of the layoff process do have to be approved by the Civil Service Commission. Having agencies make those exemptions at a certain level and then having the commission approve those exceptions makes the process very transparent while also allowing it to be flexible. The proposed layoff plans would indicate which employees within each career field are targeted to actually be laid off, beginning with those with the least state service, and would document the business reasons for any exemptions made by the agency. The plan further includes the business reason for any exceptions to the layoff rules that an agency may wish for the commission to consider, and would also list employees who are to be relocated to vacancies that have been created as the result of the layoff of less senior employees or those with less than satisfactory performance. The relocation decisions are made by the appointing authority based on the skills of the employees that are remaining, and the needs of the agencies, not based on seniority.

Representative Morris inquired about the least state service aspect. The information supplied to the committee gives them the turnover rate of the lower paying jobs. The workers that are turning over the most are the ones they probably need.

Shannon Templet answered that the turnover rate shows that the jobs with the highest turnover are generally in 24-hour facilities, so security officers, nursing aides, psych. aides. Generally, those positions have to be filled to maintain services.

Representative Morris asked if that is the case, then if they turn over the most then aren't they going to have the least amount of service.

Judy McGimsey answered that those positions are not generally the ones that are targeted. They wouldn't be within the career fields that would be chosen for reduction of positions.

Representative Morris inquired if it was possible for him as a manager of his agency to come in and tell Civil Service that he wants to get rid of his middle management, could they do that.

Judy McGimsey answered that they could.

Representative Morris asked if the procedure would be the same, but they would identify who they are going to look at.

Shannon Templet answered if they are going to layoff and send people home, then it would be through the layoff process.

Judy McGimsey stated that however, they could come in and use the retirement incentive instead because it may be more palatable, which is what the Department of Insurance recently did.

Representative Morris asked if that was a short term fix.

Judy McGimsey answered it would be if they elect to refill the positions at some point.

Representative Morris stated that those positions would still be budgeted for, but not filled.

Shannon Templet stated that is what layoff avoidance is - a short term fix.

Judy McGimsey stated that if they had made the decision to permanently eliminate that middle layer of management, they would have gone to the department and given them a layoff avoidance plan. They had talked about doing an organizational unit for each separate office of the commissioner of insurance.

Representative Morris asked if an agency head could come back with a total re-vamping of the whole agency.

Judy McGimsey said an agency head could do that.

Shannon Templet stated that the Civil Service Commission adopted a business reorganization rule on June 3, 2009.

Representative Morris asked where he could find it in the department's book.

Shannon Templet answered chapter 5.

Judy McGimsey further clarified that it could be found at 5.6.1 and they would get it for them.

Shannon Templet stated that Coastal was the biggest reorganization that they had completed.

Representative Morris had made the thought process of looking at the SECURE report - the information that had been given, how did Civil Service react if they did react, did it work, did it not work, etc.

Shannon Templet answered that it was called ASCEND 2020 and that is what transformed the Department of State Civil Service from 2000 to what they are today.

Representative Morris asked if that resulted in the June 3 adoption.

Shannon Templet answered yes.

Representative Morris stated that he would like them to address each thing. He wants to know what they did, if anything, has it worked, etc.

Shannon Templet answered that they could prepare that for the next meeting.

Representative Morris stated that he appreciated the information that he received from them, but he was having a difficult time getting it all together in a format. He did not want for this advisory group to come up with more recommendations that had already been implemented. He stated that he wants to find those areas where agencies including Civil Service haven't reacted where they can react, and find out what they can do.

Representative Danahay asked about the business reorganization and if that was a tool that is used in a layoff procedure or is it totally separate from the layoff avoidance plan.

Shannon Templet answered that it could be totally separate from any layoff or layoff avoidance or it could be used once a layoff is complete to help the organization to provide the services.

Representative Danahay asked if layoffs could take place through the business reorganization plan.

Shannon Templet answered that the agency would have to have the layoff plan first, then the business reorganization plan.

Judy McGimsey stated that the processes are similar. The difference is in layoff, some people are not going to be employed at the end of the day. In business reorganization, there may be exactly the same number of people and positions as before but they are just not doing the same jobs.

Representative Danahay commented relative to the layoff avoidance plan and said that he had heard from agency heads and other folks that when they identified a poor performing employee or someone that does not perform to their measures, they can't get rid of that employee. He said that he knew that there was a process, whether it was through the PPR system, etc., that the manager could identify that employee and layoff that specific employee and asked if that was correct.

Jean Jones replied that if an individual was a poor performer, the process that would be used would not be layoff, it would be firing.

Representative Danahay inquired whether or not it would be reflected on the PPR.

Jean Jones responded that if the agency has documented cause for firing, whether that be on the PPR or in some other format, the process is discipline and the ultimate discipline is firing. A layoff is something that is done when the organization has determined

that it is going to eliminate a program or the budget has been cut such that it can no longer afford to provide the same number of services or the same level of service because it does not have the funds, and as a result it is going to have fewer positions. In that situation, once the position, - and there is a difference in talking about positions or functions that are going to be eliminated, - and then having identified those functions to be eliminated, then looking at the people performing those functions and seeing how those people should be moved or treated. So, the positions represent the functions, once the function has been identified and that function is no longer going to be performed, that position/function is eliminated, then the layoff rules moves to - what happens to the person occupying that position/function and the only place that - or the first place that will be looked at is the individual performances. Having decided a function/positions is going to be eliminated, the first person to be sent home is going to be the one whose PPR is a "poor" or "needs improvement".

Representative Danahay asked if there was a procedure for that.

Jean Jones answered yes, sir. The requirement for discipline or removal of property whether that is removing a job or reducing their pay through some mechanism, is that they must be afforded due process which is a constitutional provision which requires giving the person notice of what is proposed to be taken from them, that has to include the reasons why the proposal is being made, the description of what the problem is, and the employee has to be given an opportunity to respond to that proposal, and then once that response is heard, the agency makes the decision of whether they are going to take an action or not. So it is a three step process.

Representative Morris inquired as to how long that should take.

Jean Jones answered that it could take a couple of days, depending on how long is a reasonable amount of time for that person to give a response.

Representative Danahay inquired as to who would set that.

Jean Jones answered that the agency, the appointing authority decides what they are going to do. As far as giving notice, you want to give that employee an opportunity to respond, the circumstances that the agency judges gives them a reasonable opportunity to respond before you take that action.

Shannon Templet stated that the reason that differs is because some agencies, if they have a disciplinary action, they may call the employee into the office and hand them a letter that day and verbally tell them that they are being given five to seven days to respond. However, if the letter was placed in the mail, then the appointing authority would have to give the postal system time to actually get the letter to the employee which could extend the process somewhat.

Representative Danahay inquired as to whether or not there were any kind of infractions that are identifiable that would be cause for immediate termination.

Shannon Templet replied that there are some egregious acts that the appointing authority could send the employee home that day from the work place.

Robert Boland responded that there was no listing of actions in which an employee may engage that would result in termination or suspension or a reduction in pay. If an employee did something egregious, slugs a supervisor, then there is no question at all that that employee should be fired. If they fail to send in a report on time, that is an indication, perhaps of some mal performance and the way that a manager deals with an employee who is not performing properly, that does not meet the standards, is to apply basic principals of management. Tell the employee what the problem is, I do not like what you are doing and to make a note of that, the counseling, the bad act, the report being late, etc. If it happens again, then back you go, I told you this 2 weeks ago, a month ago depending on when it was, you are mal-performing. You are trying to manage the employee into being a good employee. Sometimes it may take a month, sometimes it may be a year or six months before the manager realizes that this is an employee who is not fit for public service and it really depends on the manager and how aggressively the manger wants to manage. And at the point that the manager concludes that the person is not fit for public service and they have their notes and their letters and maybe the PPR that shows how they tried to manage the employee and how the employee has failed, then the process that we are talking about here runs its course. A letter is drafted up that says, "we plan on terminating you because" and then goes through the facts, you have got a few days to tell us why we should not or why our facts are wrong. The reply comes back, if it causes the manager or the appointing authority to change their mind, then they change their mind and that does happen, but if it does not then they are terminated. He said that the tools are there.

Representative Danahay responded that he heard that comment about not being able to layoff a particular employee quite often. He then asked about the appeals process.

Robert Boland answered that before ASCEND 2020, there were a lot of appeals that got filed, almost everyone who was disciplined filed an appeal and frankly more employees won then than they do now. The percentage was very high. He said they began a process of changing the way that they related to the executive branch through the ASCEND 2020 wherein they began to train managers and lawyers to let these individuals know that they could fire employees and to be more aggressive about it. Managers are trained on how to manage their employees and to do just that. The number of terminations is now just about the same as they were before ASCEND, however, the number of appeals has been cut by two-thirds and the number of employees who prevail is in single digits, there was one two years ago and three the last fiscal year.

Representative Danahay inquired as to who heard these cases.

Robert Boland answered that it was the Civil Service Referees and the Civil Service Commission. The Civil Service Referees are attorneys. The State Constitution gives them the right to hear and decide a case. The Civil Service Commission used to hear appeals of employees, but the volume of appeals has gotten so low now, that the Referees hear

almost all of them now. There is the right of the aggrieved party to ask the Civil Service Commission itself to review a decision of the Referee. What happens during that process or the point where the Civil Service Commission changes the decision of the Referee are usually driven by policy, that is the Civil Service Commission will say that they wanted the Rule interpreted or applied a certain way. The Civil Service Commission is made up from individuals from very diverse backgrounds. The policy changes come through commissions and board and that is what the Civil Service Commission does with the application for review process. He said that it was part of his job to talk to HR directors, managers and attorneys relative to the issues they have in their work place and for someone to say that they just can't fire an employee - he said that was simply not true.

Shannon Templet commented that the average over a five year period, starting fiscal year 2003/2004 through fiscal year 2007/2008, employees appealed 161 times and only won 14 out of that 161.

Representative Morris stated that he had an agency ask for information as to what services should be cut. It was his belief that no one wanted to cut services and was not sure that the procedures should be outlined to cut services. He inquired as to whether or not it would be possible to eliminate an employee without cutting the service or position.

Shannon Templet answered that the rules allow for that for budgetary reasons so they don't have to cut a program or a specific service, if they do not have the money to employ the number of staff they have, then they can go through the layoff process.

Representative Morris inquired as to whether or not an employee who was not laid off would be expected to pick up the job responsibilities of the employee who was or if that was even possible.

Jean Jones answered that it depended on the type of service or function the two employees had. She said that some functions, such as social services, each employee has a certain number of home visits that they are allowed to carry out. If they were to try to maintain that certain number of home visits with fewer social service folks, something would have to give, they would either have to spend less time in each of those home visits or they are not going to be able to meet that standard number of home visits. So in this instance one employee may not be allowed to take over the other employees functions.

Shannon Templet also answered yes, those individuals still employed after a layoff could and should be expected to pick up the additional work and a lot of times they do.

Representative Morris inquired as to whether or not there was a provision for allowing the remaining employee who picked up the additional work to ask for additional money.

Shannon Templet answered yes there are provisions for that. She said that the employee could ask for additional money, but that did not mean that they were going to get

it. There are rules that allow employees to get additional pay for additional duties, but that does not mean that they would receive same.

Representative Morris inquired as to whether or not a bonus could be given to that individual at the end of the year as opposed to a salary adjustment.

Shannon Templet answered a lump sum award, yes they can do that. They can do that now.

Judy McGimsey continued with her discussion relative to the layoff plan. She said that the layoff plan had to contain certain information so that everyone who was affected by the layoff knew what was happening. She also said that there were a number of notice requirements and some minimum time frames that were spelled out in the rules which were generally taken care of by the agency's HR office. The purposes for the requirements and time frames associated with layoffs were to make sure that the legal obligations for notices were met. The agency would issue a general notice that a layoff was being considered. They are advised to do this as soon as it was reasonable to do so, the office of planning and budget at the Division of Administration required that agencies implementing layoffs submit certain details relative to their financial information. This is required five working days prior to the general notice that a layoff is imminent. At the time that the proposed layoff plan was delivered to the Department of Civil Service, the agency would then deliver an individual notice to each employee with a copy of the proposed layoff plan, there is a five day waiting period between the delivery of the last individual notice and the date that the director could approve the plan.

Representative Morris inquired as to the number of days that they were now up to.

Judy McGimsey answered that the total was actually about twelve days, about two working weeks. After the approval of the plan, the agency would send a final notice to each employee, that is any employee who would be laid off due to performance inadequacies, because their position would no longer be needed, they were the least senior employee there, and no exemption or exception was made for their skills, or that they were demoted to lower positions at the end as a result of the layoff and the revised organizational restructure. The effective date of the layoff is five calendar days following the delivery of that last final employee notice. The final notice to employees would include information that they need relative to their benefit options, such as COBRA, information relative to any payout of accrued leave that they might be entitled to, and information relative to the department preferred re-employment list. She said that they do provide the opportunity for employees to have their names placed on the department preferred re-employment list so that if their agency is re-hiring in the next two years in the same job that they had just been laid off from, they do have some preferential hiring options. Fifteen days after the effective date of the layoff, the agency would submit a post layoff report to the Department of Civil Service to advise them as to the action that actually took place. It was her belief that it was not an easy process, because there is nothing easy about laying people off, but it was a straight forward process.

Representative Morris inquired as to the cost that the State of Louisiana would incur as a result of a layoff.

Jean Jones replied that there was a cash payment of the hours of annual leave accrued up to 300 hours which is about 7.5 weeks of pay when an employee is separate from service regardless of the reason for separation, whether it be a layoff or retirement.

Representative Morris inquired whether or not this was paid out of the budget of the agency that was processing the layoff.

Shannon Templet answered out of the budget of the agency.

Representative Morris inquired as to whether or not the agencies had a contingency for this type of liability.

Jean Jones responded that she could only speak for the Department of Civil Service and answered no sir, they do not.

Jean Jones continued her discussion relative to the cost to the state. She said that there was also the cost of the unemployment insurance benefits. The State of Louisiana does not pay UI tax in the way that private employers do. When the state lays off people, if that person files for and receives unemployment insurance benefits, the agency directly pays those benefits. It was her understanding that the current maximum unemployment insurance benefit in Louisiana was \$284 per week for up to 26 weeks.

Representative Morris inquired as to the process it would take to possibly extend that 26 weeks if it became a necessity.

Jean Jones replied that she did not know. She said that she would be glad to find out and provide the advisory group with that information.

Jean Jones continued her discussion relative to the cost to the state. She said that the cost of the state's share of higher group health insurance premiums would not come into play in terms of layoffs, however, the premium for retirees were higher than those for active employees. There may be an impact on actuarial assumptions supporting both the office of group benefits and the retirement systems. She provide a handout for the advisory group which detailed the costs in a chart. See chart entitled "Have You Thought About" for more detailed listing.

Representative Morris inquired as to whether or not that was something that might also be changed and asked how long COBRA lasted.

Judy McGimsey answered that COBRA was 18 months and under current federal law, the federal government reimburses for up to 60% of the premium. It was her belief that portion of the health insurance premiums continued to be paid by the employer. She

said that this was part of the stimulus act. She said that she would be happy to provide the advisory group with more information relative to this .

Representative Morris inquired relative to an extension of the 18 months. He also inquired relative to across-the-board pay reductions as a whole, who would make that decision, could they or was it even allowed.

Jean Jones responded that each agency has an option of doing, as a layoff avoidance measure, a pay reduction through a furlough or reduced hours type of thing.

Representative Pearson inquired as to whether or not they had any type of apprenticeship to try and bring new people in so that they could learn some of the areas where the expertise is needed.

Jean Jones stated that they have been working with agencies for a number of years was workforce planning, providing workshops and training for the younger group of personnel coming into the work place. She said this is an ongoing effort to try to assist agencies to anticipate and identify where the loss of knowledge might be, what would need to be replaced and to do some preparation for those folks coming up to take those places.

Representative Pearson inquired as to whether or not there was a mechanism in place to make sure that those eligible to retire would go ahead and retire so that the new ones who come into the workforce could stay.

Judy McGimsey responded the way the layoff process works is that the ones with the least years of state service are looked at first, then their educational background, their skills, their competencies, their performances and what they bring to the job. So an employee who may have only been working for two or three years, whose knowledge and skills are key to the agency being successful and achieving its mission, they could be exempted from that layoff.

Shannon Templet responded that seniority did play a role in the layoff process at some point. Once you pass the organizational unit, the structure that the agency wants to decide on, once you pass your performance ratings, once you pass if an employee has certain skills or competencies that are needed that would be critical to the agency's mission, then seniority would play a role at that point.

Representative Pearson inquired relative to there being a substantial difference between the new comers pay-grade, salary and those employees who have been employed for 20 or 30 years.

Judy McGimsey responded that typically yes, someone who has been working 40 years would be making more than someone who had been working for two if they are in the same field.

Representative Morris asked for the best definition of furlough.

Judy McGimsey responded the best definition she had of furlough was a number of days over the course of some period of time that employees were required to not go to work. They were not paid for those days that they do not go to work. She said that different agencies in the past have worked that out in different ways. They have had agencies that have done furloughs for 90 days, 90 days out of the year, because they had seasonal work or things that they could really back off on during a particular time of the year. She said that currently a number of colleges and universities are furloughing people for a certain number of days each semester and some have implemented a graduated scale, so that the people who make less than \$30,000 a year are not being furloughed and those that make a little bit more were being required to take one day a semester, people who make more were being required to take two days a semester, etc. She said that there were a lot of flexibility in the ways that agencies could implement furloughs.

Representative Morris inquired as to whether or not they had to report to the Department of State Civil Service with their plan before putting into action.

Shannon Templet answered yes.

Judy McGimsey replied in response to reduction in pay, they can . . .

Representative Morris inquired as to whether or not that was basically the same thing.

Judy McGimsey responded not exactly, but it can be. She said that is was very similar.

Shannon Templet replied if the employee was furloughed then they would not get paid for the days that they did not work, then certainly their pay would be decreased. Employees see this as a reduction in pay. Their base pay would not be changed, so that there would not be a reduction in their hourly wages.

Representative Morris inquired as to whether or not there was any legal way to actually lower wages across the board.

Judy McGimsey responded that the layoff avoidance measure that currently exist allows you to reduce regular work hours and corresponding salaries by up to 20%.

Representative Morris asked if an employees actual pay could be reduced.

Judy McGimsey answered under the current rules of the Civil Service Commission you can not do this.

Robert Boland answered that it was theoretically possible to do that, that is to have someone work 40 hours a week and instead of paying them a certain amount an hour you want to pay them less, there would have to be some authorization for that and the way that the Civil Service rules read right now, that is not available to the appointing authorities. It is

possible for the Civil Service Commission to change its rules to include that. Then it could be done as a layoff avoidance measure, but it does not exist now.

Representative Morris stated, but it could.

Robert Boland answered if the Civil Service Rules were changed.

Shannon Templet stated that the Civil Service Commission would have to adopt a rule, because that would be a rule that would relate to wage determination, the governor would then have to sign that rule in order for it to go into effect.

Judy McGimsey added that at one point historically that was an option under the layoff avoidance measure, a salary reduction with no reduction in number of hours worked, however, agencies never requested to use it.

Representative Morris inquired as to when that was.

Judy McGimsey answered that she would have to go back and check the date, but thought that it might have been back in the 1980's.

Representative Danahay inquired as to whether or not that was temporary.

Judy McGimsey answered that it was temporary. She said that all of the layoff avoidance measures were designed to be done for 12 consecutive months and then reviewed to see where they stand.

Representative Morris inquired relative to the information that they had provided the advisory group relative to forced retirement.

Jean Jones replied that was pretty much just for their information in response to some of the questions asked last week relative to being able to change some of the benefits offered state employees included changes to the leave policies.

Representative Morris inquired as to whether or not the discussions and comments made today during the meeting were relative to classified employees only.

Judy McGimsey answered yes, sir. She said that in the process of doing these layoff avoidance plans, agencies are asked what they are doing with their unclassified employees and generally they are being treated the same way as the classified employees are being treated.

Representative Morris inquired as to whether or not agencies heads were required, by law, to provide information relative to classified and unclassified employees during these measures.

Judy McGimsey replied that by law they were required, by law, to provide a list of the unclassified employees that are in their agencies, but are not required to provide any other information. However, the layoff plans would not be approved, if they did not provide the additional information.

Representative Danahay asked, if the agencies heads in their layoff avoidance plan, by law were required to provide the same information for those unclassified employees as they were for the classified employees.

Judy McGimsey responded some information, yes.

Representative Morris inquired as to what that information was.

Judy McGimsey answered the number of unclassified employees they had that were authorized by the Civil Service Commission and how many unclassified positions they had, like temporary, seasonal, or part time employees. She said that they were authorized under two different Civil Service Rules. Rule 4.1(d)1 and 4.1(d)2 and they have to specify in their layoff plan how many employees they have authorized under each of those rules.

Representative Morris inquired as to whether or not they could choose not to do anything for unclassified employees.

Judy McGimsey responded they could.

Representative Danahay stated that they were not required by statute, they are required by Civil Service Rules. So technically if the agency said that they did not want to provide information, they did not have to relative to the unclassified employee.

Judy McGimsey responded that she thought that was accurate.

Shannon Templet commented that Civil Service had been fortunate, up to this point, in that every agency that has requested a layoff avoidance measure and layoffs, when they have been asked, they have provided the information above and beyond just the regular reporting data that had to be submitted.

Jean Jones stated that there was a statute that required agencies to report to Civil Service their unclassified employees, their titles and their salaries every 30 days, or at least if there is a change within 30 days, that was not tied to layoffs or layoff avoidances.

Representative Danahay commented so there was some information that was being provided outside of layoffs or layoff avoidances to Civil Service.

Jean Jones replied yes, on a routine basis they were statutorily required to report to Civil Service a list of their unclassified employees, their job titles, and their salaries.

Representative Morris asked if they had ever provided the advisory group with a copy of the ASCEND 2020.

Jean Jones responded yes, she thought they had, but that was before Representative Pearson and Representative St. Germain joined the group and would be happy to provide another copy.

Representative Morris asked that Laura Gail Sullivan read into the record the recommendations received by the advisory group.

Laura Gail Sullivan read the recommendation: Each statewide elected official should determine, as of October 2, 2009, the number of unfilled positions authorized for the agency in its Table of Organization, Appropriated Table of Organization Full Time Equivalents (TO FTEs) approved by legislative appropriation, eliminate 75% of those unfilled positions, and return the funds appropriated therefor to the state.

Representative St. Germain inquired as to whether or not the advisory group could constitutionally do this.

Laura Gail Sullivan responded that during the testimony relative to the use of the retirement incentives, positions were not necessarily eliminated, the positions were vacated, but remained in the agencies' TO. This allows them to continue to ask for funding for those vacant positions. She said that most retirement incentive plans that were done by the appropriating agency, there were two stipulations put on those individuals that took the incentive. The first was a stipulation on the individual that they could not return to state employment for a certain number of years, and then there was usually also a mandate on the agency that any position vacated by the person taking the incentive had to be abolished. She said that because the Civil Service had done their layoff avoidance measure that involved retirement incentive by rule, the State Civil Service Commission felt that they did not have the ability to mandate an agency to do away with a position. She said the proposal as drafted only recommends that the statewide elected official voluntarily determine the number of unfilled positions, eliminate them and return the funds appropriated to the state. It doesn't mandate that the legislature force them to do it, it doesn't say that the Treasurer is going to withhold their money for that, it simply says that the statewide elected official should make this determination and return the money. The streamlining commission is only making recommendations and the recommendations are being made to the entity that would be responsible for the implementation.

Representative Danahay stated that he thought the reason they left the positions unfilled so many times was because it was such a burden to eliminate them and then decide that they were really needed. He asked if this was applied to classified or unclassified positions.

Representative Morris answered that it was any positions that were being held open.

Representative Danahay stated that it was his belief that the greatest number of growth in state employment since 2002 had been in the unclassified section of state government. He said that they actually had a 22% increase in that time period where as classified employees had decreased and thought that it was important that both classifications be included in the proposal.

Representative Morris moved the recommendation forward.

Representative Morris wanted to asked the advisory group about the possibility of setting up a review panel for the possibility of hiring employees that may be needed. He said that he did not have all of the particulars on that, but said that it was something they would be discussing in the future as well as the SECURE organizational model that could be found in that report dated April, 1995 and wanted the group to familiarize themselves with that report.

Laura Gail Sullivan advised the group that the next meeting would be November 16, 2009. It would be a full day of testimony to receive comments on all proposed recommendations, as well as submission by all cabinet agencies on their organizational structure, retirement eligible employees and succession plans and obstacles that they face if they were asked to reduce their budgets or staffing. The Division of Administration will present information on the Comprehensive Personnel Training Program and how it fits in with Civil Service training. There will be a representative here to discuss the national career readiness certificate and information about the ACT work keys assessment, receive comprehensive information on employment in the Civil Service Audit, the final advisory group action on all proposals which have been received by the full commission. She said counting the one today, there were 32 proposed recommendations that would come back to the advisory group for final action.

V. ADJOURNMENT

Representative Jim Morris made a motion to adjourn without objection. There being no further business, the meeting was adjourned at 4:10 p.m.

November 16, 2009

DATE APPROVED

Representative Jim Morris, Chairman